

REMARKS

The following remarks are responsive to the final Office Action mailed May 3, 2006. Favorable reconsideration is respectfully requested in light of the following remarks.

Claim Amendments

Claims 37 and 47 were amended to more particularly claim the invention. Support for the claim amendment may be found, for example, on page 12, lines 11-22 and in figures 6A and 6B. Claims 46, 48 and 54 were amended to update the claim terminology to that used in claims 37 and 47. Claims 56-58 were added, support for which may be found, for example, in Figures 6A and 6B. Applicants respectfully submit that no new matter has been added.

Claim Rejections—35 U.S.C. § 103

Claims 37-55 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Barbut et al.* (U.S. Patent No. 5,997,557) in view of *Winston et al.* (U.S. Patent No. 6,228,076). Applicants respectfully disagree.

The Examiner argues that Figure 22 of *Barbut et al.* disclose a filter being attached to the elongate member in the manner previously claimed. However, *Barbut et al.* do not appear to teach or suggest a filter attached to an elongate member as claimed in the currently amended claim 37. For example, amended claim 37 recites “an expandable filtration assembly having an expanded configuration that defines a distally facing cavity...the cavity including a gap between the distal end of the elongate member and the expandable filtration assembly, the gap extending longitudinally both distally and proximally from the distal end and extending radially from the distal end.” In Figure 22, *Barbut* teaches a filtration assembly where the arms 300 are attached to the distal end of

the elongate member; consequently the cavity of the embodiment of Barbut et al. does not include a gap as claimed.

The Examiner also asserts that the particular configuration claimed would have been an obvious matter of design choice. However, the claimed configuration is not a merely arbitrary arrangement of features, but has a particular combination of features that is advantageous for certain applications.

Like the catheter of Figure 22 of Barbut et al., the claimed configuration limits the area where emboli can spread to the area directly around the therapeutic catheter distal end. Such a configuration may not be essential in arteries, which have a flow pattern that permits a more proximal filter placement, but is particularly helpful in larger vessels such as a chamber of the heart where it is more difficult, if not impossible, to plan for all the directions that fragments may go or all the nooks and crevices that those fragments may lodge in.

However, unlike the catheter of Figure 22, this configuration uses the distal end of the elongate member to provide protection for the expandable filtration assembly. This configuration was designed for use with therapeutic catheters in general and ablation catheters in particular. Many therapeutic catheters are used to remove or destroy tissue or deposits and consequently have sharp edges, a high-energy tip or the like. These tips, suitable for the destruction of tissue, are likewise effective to damage or destroy an expandable filtration assembly. By attaching the expandable filtration assembly proximal of the distal end of the elongate member, a distal section of the elongate member in the expandable filter is created with a gap between the distal end and the expandable filtration assembly. This distal section serves at least two protective functions. First, it

forms a barrier between the expandable filtration assembly and the distal end of the therapeutic catheter where the expandable filtration assembly is closest to the elongate member, which eliminates the possibility of the potentially destructive therapeutic catheter distal tip from contacting and thereby damaging the proximal part of the expandable filtration assembly. Second, this distal section of the elongate member directs the therapeutic catheter towards the center of the space enveloped by the expandable filtration assembly in its expanded position and thereby makes it less likely that the therapeutic catheter distal tip will contact and damage the distal part of the expandable filtration assembly. It can thus be seen that the claimed configuration is not an arbitrary design choice.

As neither Barbut et al. nor Winston et al. singly or in combination appear to teach or suggest all the claim elements of claim 37, applicants respectfully submit that claim 37 is nonobvious over these references and is in condition for allowance. As claims 38-58 depend from claim 37 and contains additional elements, applicants submit that these claims are in condition for allowance as well.

Double Patenting Rejection

Claims 37-55 were rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,235,044 and claims 1-19 of U.S. Patent No. 6,673,090. The terminal disclaimers submitted with the June 12, 2006 response obviate these rejections.

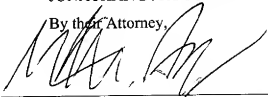
Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

JONATHAN D. ROOT ET AL.

By their Attorney,

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